

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

NANCY MICHELLE WILLIAMS,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting Commissioner
of the Social Security Administration,

Defendant.

CAUSE NO.: 4:19-CV-81-TLS

OPINION AND ORDER

This matter is before the Court on a Motion for an Award of Additional Attorney Fees Under 42 U.S.C. § 406(b) [ECF No. 28], filed on February 14, 2023. The Plaintiff's attorney requests additional attorney fees in the amount of \$9,558 pursuant to 42 U.S.C. § 406(b). The Defendant takes no position on the requested award. *See* ECF No. 29. For the reasons stated below, the Motion is granted.

BACKGROUND

The Plaintiff's attorney represented the Plaintiff before this Court in a judicial review of the Commissioner's unfavorable decision on the Plaintiff's application for disability insurance benefits and supplemental security income. On September 15, 2021, the Court reversed and remanded this case for further proceedings. ECF No. 21. The Court awarded \$9,500 in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. ECF No. 24.

On remand, the Social Security Administration issued a Notice of Award entitling the Plaintiff to past-due disability insurance benefits in the amount of \$76,548, twenty-five percent of which (\$19,137) was withheld for the payment of attorney fees. *See* Mot. Ex. E 2–4, ECF No. 25-5. On February 8, 2023, the Court granted the Plaintiff attorney fees in the amount of \$19,137

pursuant to 42 U.S.C. § 406(b), with a net amount of \$9,637 paid to counsel. *See ECF No. 27.* That amount was based on the retainer agreement between the Plaintiff and her attorney [ECF No. 28-1], in which the Plaintiff agreed to pay her attorney twenty-five percent of all past-due benefits for work at the federal court level.

On February 11, 2023, the Social Security Administration issued a Notice of Award awarding past-due benefits to the Plaintiff's daughter in the amount of \$19,012 and a Notice of Award awarding past-due benefits to the Plaintiff for the benefit of her son in the amount of \$19,222. *See ECF Nos. 28-7, 28-6.* Based on the awards to the Plaintiff's daughter and for the benefit of her son, the instant motion requests additional attorney fees in the amount of \$9,558, or 25% of the new awards.

ANALYSIS

The Social Security Act allows for a reasonable fee to be awarded both for representation at the administrative level, *see 42 U.S.C. § 406(a)*, as well as representation before the Court, *see id. § 406(b).* *Culbertson v. Berryhill*, 139 S. Ct. 517, 520 (2019) (quoting *Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002)). Under § 406(b), the Court may award a reasonable fee to the attorney who has successfully represented the claimant in federal court, not to exceed twenty-five percent of the past-due benefits to which the social security claimant is entitled. 42 U.S.C. § 406(b)(1)(A); *Gisbrecht*, 535 U.S. at 792. The reasonableness analysis considers the “character of the representation and the results the representative achieved.” *Gisbrecht*, 535 U.S. at 808.

In this case, the requested amount of attorney fees is consistent with the contingency agreement. In total, the Plaintiff has requested \$28,695 in attorney fees under § 406(b), \$19,137 of which the Court has already granted. The effective hourly rate for the total requested § 406(b) award equals approximately \$549.71. *See ECF No. 28-2* (reflecting 52.2 attorney hours). Such an

hourly rate is reasonable given the contingent nature of this case. *See, e.g., Osmun v. Comm'r of Soc. Sec.*, No. 1:16-CV-273, 2020 WL 7334271, at *3 (N.D. Ind. Dec. 14, 2020) (effective hourly rate of \$525); *Niebuhr v. Saul*, No. 18-CV-720, 2020 WL 6484488, at *1 (W.D. Wis. Nov. 4, 2020) (effective hourly rate of \$579); *Koester v. Astrue*, 482 F. Supp. 2d 1078, 1083 (E.D. Wis. 2007) (collecting cases showing that district courts have awarded attorney fees with hourly rates ranging from \$400 to \$1,500). In addition, counsel obtained a great benefit for the Plaintiff in the past-due benefits award as well as future benefits.

CONCLUSION

For the reasons stated above, the Court GRANTS the Plaintiff's Motion for an Award of Additional Attorney Fees Under 42 U.S.C. § 406(b) [ECF No. 28] and AWARDS an attorney fee under 42 U.S.C. § 406(b) of \$9,558.

SO ORDERED on March 1, 2023.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT